

## Procedural Guide

1200-501.10

### VICTIMS OF CRIME: REFERRALS AND RELEASE OF INFORMATION TO SERVICE PROVIDERS

Date Issued: **7/10/13** Effective date: **07/22/13** (**NOTE: The effective date applies to only those sections highlighted in yellow, the rest of the procedures are currently in effect. This will allow time for SCSWs to inform their CSWs of the changes.**)

- ☐ New Policy Release
- ☒ Revision of Existing Procedural Guide 1200-501.10, Victims of Crime: Referrals and Release of Information to Service Providers, dated 08/26/10.

Revision Made: **NOTE: Current Revisions are Highlighted**

Per SB 1299, the time frame to file an application has increased from one year to three years.

Cancels: None

### DEPARTMENTAL VALUES

The policy supports the Department's priority outcome of improved safety for children and their families by assuring that needed assistance in the form of medical, psychological, and psychiatric treatment, mental health counseling, sexual abuse counseling, peer counseling, cash payments, and death benefits, are provided to children, their caretakers (derivative victims), as soon as possible when they are the victims of crime.

### WHAT CASES ARE AFFECTED

This Procedural Guide is applicable to all new and existing referrals and cases.

### OPERATIONAL IMPACT

The Victim of Crime (VOC) program provides compensation to qualified victims of specified crimes for specified losses suffered as a result of those crimes.

## **WHO QUALIFIES?** *(As defined by Government Code Section 13955)*

Except as provided in Section 13956, a person shall be eligible for compensation when all of the following requirements are met:

- The person for whom compensation is being sought is any of the following:
  - (1) A victim.
  - (2) A derivative victim.
  - (3) (A) A person who is entitled to reimbursement for funeral, burial, or crime scene cleanup expenses pursuant to paragraph (9) of subdivision (a) of Section 13957. (B) This paragraph applies without respect to any felon status of the victim.
- Either of the following conditions is met:
  - ❑ The crime occurred within this state, whether or not the victim is a resident of the state. (This paragraph shall apply only during those time periods during which the board determines that federal funds are available to the state for the compensation of victims of crime.)
  - ❑ Whether or not the crime occurred within the State of California, the victim was any of the following:
    - ◆ A resident of the state.
    - ◆ A member of the military stationed in California.
    - ◆ A family member living with a member of the military stationed in this state.

For a derivative victim, the following conditions **must** exist:

- ❑ is a resident of this state; or
- ❑ resident of another state, who is any of the following:
  - ◆ At the time of the crime was the parent, grandparent, sibling, spouse, child, or grandchild of the victim.
  - ◆ At the time of the crime was living in the household of the victim.
  - ◆ At the time of the crime was a person who had previously lived in the household of the victim for a period of not less than two years in a relationship substantially similar to a relationship listed in paragraph (1).

- ♦ Is another family member of the victim, including, but not limited to, the victim's fiancée or fiancé, and who witnessed the crime.
- ♦ Is the primary caretaker of a minor victim, but was not the primary caretaker at the time of the crime.
- The application is timely pursuant to Section 13953.

An application for compensation shall be filed within **three** years of the date of the crime, **three** years after the victim attains 18 years of age, or **three** years of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later.

- Except as provided below, the injury or death was a direct result of a crime.
  - Notwithstanding above, no act involving the operation of a motor vehicle, aircraft, or water vehicle that results in injury or death constitutes a crime for the purposes of this chapter, except when the injury or death from such an act was any of the following:
    - ♦ Intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.
    - ♦ Caused by a driver who fails to stop at the scene of an accident in violation of Section 20001 of the Vehicle Code.
    - ♦ Caused by a person who is under the influence of any alcoholic beverage or drug.
    - ♦ Caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime in which he or she knowingly and willingly participated.
    - ♦ Caused by a person who commits vehicular manslaughter in violation of subdivision (c) of Section 192 or Section 192.5 of the Penal Code.
    - ♦ Caused by any party where a peace officer is operating a motor vehicle in an effort to apprehend a suspect, and the suspect is evading, fleeing, or otherwise attempting to elude the peace officer.
- As a direct result of the crime, the victim or derivative victim sustained one or more of the following:
  - Physical injury.
  - Emotional injury and a threat of physical injury.
  - Emotional injury, where the crime was a violation of any of the following provisions: (A) Section 261, 262, 271, 273a, 273d, 285, 286, 288, 288a,

288.5, or 289, or subdivision (b) or (c) of Section 311.4, of the Penal Code. (B) Section 270 of the Penal Code, where the emotional injury was a result of conduct other than a failure to pay child support, and criminal charges were filed. (C) Section 261.5 of the Penal Code, and criminal charges were filed. (D) Section 278 or 278.5 of the Penal Code, where the deprivation of custody as described in those sections has endured for 30 calendar days or more. For purposes of this paragraph, the child, and not the non-offending parent or other caretaker shall be deemed the victim.

- The injury or death has resulted or may result in pecuniary loss within the scope of compensation pursuant to Sections 13957 to 13957.9, inclusive.

### **REIMBURSEMENT AMOUNTS (*Pursuant to Government Code Section 13957*)**

The total award to or on behalf of each victim or derivative victim may not exceed thirty-five thousand dollars (\$35,000), except that this amount may be increased to seventy thousand dollars (\$70,000) if federal funds for that increase are available.

- The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed ten thousand dollars (\$10,000):
  - ❑ A victim.
  - ❑ A derivative victim who is the surviving parent, sibling, child, spouse, fiancé or fiancée of a victim of a crime that directly resulted in the death of the victim.
  - ❑ A derivative victim, as described in paragraphs (1) to (4), inclusive, of subdivision (c) of Section 13955, who is the primary caretaker of a minor victim whose claim is not denied or reduced pursuant to Section 13956 in a total amount not to exceed ten thousand dollars (\$10,000) for not more than two derivative victims.
- The following persons may be reimbursed for the expense of their outpatient mental health counseling in an amount not to exceed three thousand dollars (\$3,000):
  - ❑ A derivative victim not eligible for reimbursement pursuant to subparagraph (A), provided that mental health counseling of a derivative victim described in paragraph (5) of subdivision (c) of Section 13955, shall be reimbursed only if that counseling is necessary for the treatment of the victim.
  - ❑ A victim of a crime of unlawful sexual intercourse with a minor committed in violation of subdivision (d) of Section 261.5 of the Penal Code. A derivative victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code shall not be eligible for reimbursement of mental health counseling expenses. The total award to or on behalf of a victim of a crime committed in violation of subdivision (d) of Section 261.5 of the Penal Code may not exceed three thousand dollars (\$3,000) for mental health counseling expenses only.
- Reimburse the claimant for the expense of installing or increasing residential security, not to exceed one thousand dollars (\$1,000).

- When the crime occurs in a residence, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay the reasonable costs to clean the scene of the crime in an amount not to exceed one thousand dollars (\$1,000).
- Authorize a cash payment or reimbursement not to exceed two thousand dollars (\$2,000) to a victim for expenses incurred in relocating, if the expenses are determined by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.
- When a victim dies as a result of a crime, the board may reimburse any individual who voluntarily, and without anticipation of personal gain, pays or assumes the obligation to pay any of the following expenses: The medical expenses incurred as a direct result of the crime in an amount not to exceed the rates or limitations established by the board. The funeral and burial expenses incurred as a direct result of the crime, not to exceed seven thousand five hundred dollars (\$7,500).
- Reimburse the licensed child care expenses necessarily incurred by a victim or derivative victim as a direct result of a crime that resulted in physical injury or death, if the specified conditions are met up to conditions are met in an amount not exceed five thousand dollars (\$5,000).

#### **FILING DEADLINES (*Pursuant to Government Code Section 13953*)**

Applications resulting from crimes against minor victims **must be filed within three years** of the date of the crime, **three years** after the victim attains 18 years of age, or **three years** of the time the victim or derivative victim, knew, or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of the crime, whichever is later.

The board may for good cause grant an extension of the time period in subdivision (a). In making this determination, the board may consider any relevant factors including, but not limited to, all of the following:

- ❑ A recommendation from the prosecuting attorney regarding the victim's or derivative victim's cooperation with law enforcement and the prosecuting attorney in the apprehension and prosecution of the person charged with the crime.
- ❑ Whether particular events occurring during the prosecution or in the punishment of the person convicted of the crime have resulted in the victim or derivative victim incurring additional pecuniary loss.
- ❑ Whether the nature of the crime is such that a delayed reporting of the crime is reasonably excusable.

## HOW TO HELP CLIENTS APPLY

All VOC applications for DCFS' dependent children must be processed by the DCFS' VOC Section AND signed by the VOC Section's Program Manager. The eligibility process can take up to 90 business days.

CSWs shall assess the potential eligibility of the children in their caseloads and initiate a VOC application on behalf of any *eligible victim*. The Department has centralized the processing of all DCFS-initiated VOC applications/claims in the Bureau of Children & Family Services' Community-Based Support Division's Victims of Crime Section. All VOC referrals for dependent children must be sent to this section and **NOT** filed directly with the California Victim Compensation and Government Claims Board or direct caregivers/relatives to send the child's application to the board in Sacramento.

Community Family Preservation Networks (CFPNs) are also VOC providers. CFPNs can provide counseling for DCFS children and families even if they do not qualify for the Family Preservation Program. However, in order for the CFPNs to get reimbursed by the VOC Program, the victim must meet the VOC requirements as previously outlined in this policy.

Mental Health Service Providers Directory is available upon request by contacting the VOC Section at (213) 351-3223 or the Community Development Coordinator in your office.

## **DEFINITIONS**

### ***Crime***

Means a crime or public offense, wherever it may take place, that would constitute a misdemeanor or a felony if the crime had been committed in California by a competent adult. A Crime includes an act of terrorism, as defined in Section 2331 of Title 18 of the United States Code, committed against a resident of the state, whether or not the act occurs within the state.

### ***Derivative Victim***

A Derivative Victim means an individual who sustains pecuniary loss as a result of injury or death to a victim.

### ***Injury***

Physical or emotional injury or both. A victim who sustains emotional injury is presumed to have sustained physical injury. A child who has been the witness of a crime of crimes of domestic violence may be presumed to have sustained physical injury. A crime committed in violation of Penal Code Sections; 261, 262, 271, 273(a), 273(d), 278, 278.5, 285, 286, 288, 288(a), 288.5, or 289, or subdivision (b) of (c) of Section 311.4 of the Penal Code.

***Law Enforcement***

Means every district attorney, municipal police department, sheriff's department, district attorney's office, county probation department, and social services agency, the Department of Justice, the Department of Corrections, the Department of the Youth Authority, the Department of the California Highway Patrol, the police department of any campus of the University of California, California State University, or community college, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

***Pecuniary Loss***

A Pecuniary Loss means an economic loss or expense resulting from an injury or death to a victim of crime that has not been and will not be reimbursed from any other source.

***Peer Counseling***

Means counseling offered by a provider of mental health counseling services who has completed a specialized course in rape crisis counseling skills development, participates in continuing education in rape crisis counseling skills development, and provides rape crisis counseling within the State of California.

***Reimbursable Expenses***

Expenses directly related to a crime and not reimbursed from other sources. They include medical/dental care, mental health counseling, wage/income, financial support, job retraining, and funeral/burial expenses are provided to the non-offending parent or caretaker.

***Service Provider***

A Service Provider is an individual or agency providing direct medical or therapeutic services to the victim of a crime.

***Victim***

Means an individual who sustains injury or death as a direct result of a crime as specified in subdivision (e) of Section 13955. (h) "Victim center" means a victim and witness assistance center that receives funds pursuant to Section 13835.2 of the Penal Code.

## **Procedures**

### **A. WHEN: A DEPENDENT CHILD IS TO BE REFERRED TO VOC**

#### **CSW Responsibilities**

Whenever a dependent child is referred for VOC services, obtain a signed "Declaration in Support of Access to Juvenile Records" from the service provider before releasing any police reports and/or DCFS case records (e.g. minute orders, petitions or court reports). Retain a copy of the DCFS 4389 in the case record services folder.

1. Complete the DCFS 5410, and attach it to the DCFS 5410 any of the following reports that substantiate the crime:
  - a) a court report documenting the sustained counts; or
  - b) a police report (all pages must be included) and proof of dependency; or
  - c) a copy of the sustained petition with Disposition Minute Order; or
  - d) If none apply, please contact the VOC Coordinator at (213) 351-3223.
2. Submit documentation to the VOC Section for processing to:

DCFS/VOC Program  
425 Shatto Place, Room 310  
Los Angeles, CA 90020

#### **Victim of Crime Staff Responsibilities**

1. Review referral for completion and prescreen to ensure the crime and victim meet the requirements.
2. Contact CSW for pending information and if necessary, contact the law enforcement agency that took the police report (if applicable)
3. Upon receipt of the requested documentation:
  - a) Complete the VOC application packet;
  - b) Forward applications and supporting documents to the VOC coordinator for reviewing and approval.
  - c) Obtain the signature of the VOC Program Manager; and
  - d) Forward the application packet to the District Attorney's Claims Verification Unit for verification and eligibility determination.

4. Notify CSWs and service providers (if applicable) of an assigned claim number once an Acknowledgment Letter is received from the SBOC VOC Program.

Allow approximately four weeks from the application's submission date. The claim number is for inquiries and billing purposes only. Claim numbers are not proof of eligibility.

5. Retain copies of all DCFS-generated VOC applications in the VOC Section.
6. Notify CSWs and service providers if claim is denied and appeal on behalf of victim when appropriate.

### **CSW Responsibilities**

1. For inquiries, contact VOC staff at the following numbers:

Referrals and Status Updates: (213) 351-3223; x3213; x3214

2. For any other problems or questions regarding processed VOC claims, contact the VOC Coordinator at (213) 351-3223.

### **B. WHEN: A NONDEPENDENT CHILD OR FAMILY UNDER DCFS SUPERVISION IS TO BE REFERRED TO VOC**

### **CSW Responsibilities**

1. Refer families to the City Attorney or District Attorney Victim-Witness Assistance Program for assistance with the VOC application process. To obtain the phone number of the closest location to the family, contact the VOC Coordinator at (213) 351-3223.
2. Contact the following:
  - a) For inquiries on nondependent children's VOC applications processed by the Victim-Witness Assistance Program offices: Please call the Victim Service Representative who assisted the family.
  - b) For any other problems or general questions regarding VOC Program and claims processed by other agencies:

[California Victim Compensation and Government Claims Board](#)  
Victims of Crime Program  
(800) 777-9229

3. Document all contacts in the Contact Notebook.

## APPROVAL LEVELS

Section	Level	Approval
A.-B.	None	

## OVERVIEW OF STATUTES/REGULATIONS

**Government Code Section 13951**, sets forth the definitions of Crime, Derivative Victim, Injury, Law Enforcement, Pecuniary Loss, Peer Counseling, Reimbursable Expenses, Service Provider and Victim.

**Government Code Section 13953**, summarizes the time frame within which a victim can file a claim which is **three years** of the date of the crime, **three years** after the victim attains 18 years of age, or **three years** of the time the victim or derivative victim knew or in the exercise of ordinary diligence could have discovered that an injury or death had been sustained as a direct result of crime, whichever is later. An extension can be granted only by the Board.

**Government Code Section 13954(d)**, summarizes the confidentiality and dissemination to the board information regarding the incident and that upon request, a copy of the petition, reports of the probation officer, and any other documents, filed in a juvenile court proceeding can be given to the probation officer, judge, referee, or other hearing officer. Additionally, the board and victim centers receiving records pursuant to this subdivision may not disclose a document that personally identifies a minor to anyone other than the minor who is so identified, his or her custodial parent or guardian, the attorneys for those parties, and any other persons that may be designated by court order.

**Government Code Section 13955**, sets forth the eligibility requirements for a person to receive compensation.

**Government Code Section 13957**, sets forth the requirements for the board to grant pecuniary losses to an individual.

## LINKS

**California Code  
Division 31 Regulations  
Title 22 Regulations  
VOC Website**

<http://www.leginfo.ca.gov/calaw.html>  
<http://www.cdss.ca.gov/ord/PG309.htm>  
<http://www.dss.cahwnet.gov/ord/PG295.htm>  
<http://www.victimcompensation.ca.gov>

## RELATED POLICIES

[Procedural Guide 0500-302.10](#), Suspected Child Abuse Report: Release of Information Pursuant to Penal Code Section 11167(d) and 11167.5

[Procedural Guide 0500-501.10](#), Releasing DCFS Case Record Information

[Procedural Guide 0500-501.20](#), Release of DCFS Case Records to Service Providers

[Procedural Guide 0500-501.35](#), Responses to Subpoenas

## FORM(S) REQUIRED/LOCATION

**Hard Copy**                      None

**LA Kids:**                      [DCFS 4389](#), Declaration in Support of Access to Juvenile Records- WIC 827

[DCFS 5410](#), Victims of Crime Program Checklist and Suspect Information

[CDRC](#), Request for Victim Services and Restitution Collection

**CWS/CMS:**                      Contact Notebook

**SDM:**                              None